Patent
Attorney Docket No. 1033151-000026

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	
Bradford G. Baruh	Group Art Unit: 3679
Application No.: 10/779,471	Examiner: AARON M. DUNWOODY
Filed: February 13, 2004	Appeal No.: Unassigned
For: DEVICE AND METHOD OF COUPLING PIPES	

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Mail Stop - Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-compliant Appeal Brief dated March 26, 2007, Applicant hereby submits a Third Amended Appeal Brief that is believed to be in compliance.

Please contact the undersigned if additional information is required.

Respectfully submitted,

Buchanan Ingersoll & Rooney PC

Date: May 10, 2007

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Attorney's Docket No. 1033151-000026

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Application No.: 10/779,471	Examiner: AARON M. DUNWOODY
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THIRD AMENDED APPEAL BRIEF

Mail Stop APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This appeal is from the decisions of the Primary Examiner dated June 9, 2006, and April 25, 2006 (Advisory Actions Before the Filing of an Appeal Brief), and March 2, 2006 (Official Action, rejecting claims 1-6, 11, and 23-28, which are reproduced as the Claims Appendix of this brief).

The requisite fee under 37 CFR 41.20(b)(2) was paid with the Brief filed July 27, 2006. No new fees are believed to be due. The Commissioner is authorized to charge any fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

I. Real Party in Interest

BGB Enterprises, LLC is the real party in interest, and is the assignee of Application No. 10/779,471.

II. Related Appeals and Interferences

The Appellant's legal representative, or assignee, does not know of any other appeal or interferences which will affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

III. Status of Claims

The subject patent application was originally filed with 18 claims. Pursuant to a Restriction Requirement, Claims 7-10 and 12-22 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. During the course of prosecution, new Claims 23-28 were added, and Claims 7-10 and 12-22 were cancelled. Claims 1-6, 11, and 23-28 are presently pending in the application, and all stand rejected.

A Notice of Appeal was filed on June 2, 2006, appealing the Official Action mailed March 2, 2006, finally rejecting Claims 1-6, 11, and 23-28.

IV. Status of Amendments

No amendments were filed in response to the Official Action mailed March 2, 2006.

V. Summary of Claimed Subject Matter

The subject matter of the claims presently under appeal, pertain to pipe coupling, which includes an elongated housing defining an elongated bore therein, a stop located on an inner diameter of the housing, a first cylindrical bore extending from the first end to the stop; and a second cylindrical bore extending from the second end to the stop. The cylindrical bores are configured to allow a pipe end to advance into the pipe coupling until reaching the stop. Examples of such a pipe coupling are shown in FIGS. 24-26, and described in paragraphs [0076]-[0080] on pages 19 and 20 of the specification.

Three of the appealed claims are in independent format: Claims 1, 11, and 23. Reference is made to FIGS. 24-26. However, the comparison of the claimed subject matter to the specification and drawings is not meant to limit the claim language and is instead done for the convenience of the Board.

Independent Claim 1 recites a pipe coupling (200: FIGS. 24-26; paragraph [0076]) consisting of: an elongated housing (202: FIGS. 24-26; paragraph [0076]) comprising a first end and a second end (204, 206: FIGS. 24-26; paragraph [0076]), the housing defining an elongated bore therein (Paragraph [0076]); a stop (208: FIGS. 24-26; paragraph [0076]) located on an inner diameter (220: FIGS. 24-26; paragraph [0076]) of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing (Paragraph [0076]); a first cylindrical bore (210: FIGS. 24-26; paragraph [0077]) extending from the first end to the stop; and a second cylindrical bore (212; FIGS. 24-26; paragraph [0077]) extending from the second end to the stop, wherein the angle between the first cylindrical bore and the second

cylindrical bore is about 15 degrees to about 165 degrees (FIGS. 24-26; paragraphs [0077] and [0078]), and wherein each of the cylindrical bores are configured to allow a pipe end to advance into the pipe coupling until reaching the stop. Dependent Claims 2-6 recite the pipe coupling of Claim 1, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 45 degrees to 135 degrees. (FIGS. 24-26; paragraphs [0077] and [0078]).

Claim 11 recites a pipe coupling (200: FIGS. 24-26; paragraph [0076]) consisting of: an elongated housing (202: FIGS. 24-26; paragraph [0076] comprising a first end and a second end (204, 206: FIGS. 24-26; paragraph [0076]), the housing defining an elongated bore therein (Paragraph [0076]); a stop (208: FIGS. 24-26; paragraph [0076]) located on an inner diameter (220: FIGS. 24-26; paragraph [0076]) of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing (Paragraph [0076]); a first cylindrical bore (210: FIGS. 24-26; paragraph [0077]) extending from the first end to the stop; and a second cylindrical bore (212: FIGS. 24-26; paragraph [0077]) extending from the second end to the stop, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees (FIGS. 24-26; paragraphs [0077] and [0078]), and wherein each of the cylindrical bores are configured to allow a pipe end to advance into the pipe coupling until reaching the stop.

Claim 23 recites a pipe coupling (200: FIGS. 24-26; paragraph [0076]) comprising: an elongated housing (202: FIGS. 24-26; paragraph [0076] comprising a first end and a second end (204, 206: FIGS. 24-26; paragraph [0076]), the housing defining an elongated bore therein (Paragraph [0076]); a single stop (208: FIGS. 24-

26; paragraph [0076]) located on an inner diameter (220: FIGS. 24-26; paragraph [0076]) of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing (Paragraph [0076]); a first cylindrical bore (210: FIGS. 24-26; paragraph [0077]) extending from the first end to the stop; and a second cylindrical bore (212; FIGS. 24-26; paragraph [0077]) extending from the second end to the stop, wherein an angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees (FIGS. 24-26; paragraphs [0077] and [0078]). Dependent Claims 24-28 recite the pipe coupling of Claim 23, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 45 degrees to 135 degrees. (FIGS. 24-26; paragraph [0077] and [0078]).

VI. Grounds of Rejection to be Reviewed on Appeal

A. Whether Claims 1, 5, 6, 11, 23, 27, and 28 are anticipated under 35 U.S.C. 102(b) by Byrnes, (U.S. Patent No. 6,179,343); and

B. Whether Claims 2-3 and 24-26 are unpatentable under 35 U.S.C. 103(a) over Byrnes in view of McIlroy (U.S. Patent No. 3,995,888).

VII. Argument

A. Whether Claims 1, 5, 6, 11, 23, 27, and 28 are anticipated under 35 U.S.C. 102(b) by Byrnes, (U.S. Patent No. 6,179,343):

1. Claims 1 and 5:

Claim 1 recites a pipe coupling consisting of: an elongated housing comprising a first end and a second end, the housing defining an elongated bore

therein; a stop located on an inner diameter of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing; a first cylindrical bore extending from the first end to the stop; and a second cylindrical bore extending from the second end to the stop, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees, and wherein each of the cylindrical bores are configured to allow a pipe end to advance into the pipe coupling until reaching the stop. (Emphasis added).

Byrnes relates to a pipe elbow having two parts, each part having an arcuate segment. The arcuate segment of the first part fits sealably into the arcuate segment of the second part. By severing a portion of the arcuate segment of the first part at an angle needed for a specific run of pipe and inserting it into the arcuate segment of the second part, the assembled elbow will conform to the required angle. In addition, a sloped shoulder on the outside of the first part fits in close proximity to the end of the second part to ensure a extension of the first part into the second part in order to meet industry standards for minimum overlap of mating parts. An angled end on the arcuate segment of the second part may also be provided. See abstract.

In contrast to the combination of features as recited in Claim 1, Byrnes does not teach or suggest a pipe coupling having a first cylindrical bore extending from the first end to the stop; and a second cylindrical bore extending from the second end to the stop. Rather, in Byrnes each segment is arcuate (i.e., "to bend like a bow"). Merriam-Webster's Collegiate Dictionary, Tenth Edition, defines cylindrical as "relating to or having the form or properties of a cylinder." Meanwhile, a cylinder is defined as "a: the space traced by a straight line moving parallel to a fixed straight

line and intersecting a fixed planar closed curve b: the space bounded by a cylinder and two parallel planes cutting all its elements." Thus, based on the definition of cylindrical, a pipe elbow having two parts, each part having an arcuate segment as shown in Byrnes, does not teach or suggest a cylindrical bore. (Emphasis added). Accordingly, for the reasons set forth above, and further since Byrnes does teach or suggest a first or a second cylindrical bore as recited in Claim 1, Claim 1 should be allowable. Claim 5 is dependent from Claim 1 and should also be allowable for the reasons set forth above.

2. Claim 11:

Claim 11 recites a pipe coupling consisting of: an elongated housing comprising a first end and a second end, the housing defining an elongated bore therein; a stop located on an inner diameter of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing; a first cylindrical bore extending from the first end to the stop; and a second cylindrical bore extending from the second end to the stop, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees, and wherein each of the cylindrical bores are configured to allow a pipe end to advance into the pipe coupling until reaching the stop. (Emphasis added).

Byrnes relates to a pipe elbow having two parts, each part having an arcuate segment. The arcuate segment of the first part fits sealably into the arcuate segment of the second part. By severing a portion of the arcuate segment of the first part at an angle needed for a specific run of pipe and inserting it into the arcuate segment of

the second part, the assembled elbow will conform to the required angle. In addition, a sloped shoulder on the outside of the first part fits in close proximity to the end of the second part to ensure a extension of the first part into the second part in order to meet industry standards for minimum overlap of mating parts. An angled end on the arcuate segment of the second part may also be provided. See abstract.

In contrast to the combination of features as recited in Claim 11, Byrnes does not teach or suggest a pipe coupling having a first cylindrical bore extending from the first end to the stop; and a second cylindrical bore extending from the second end to the stop. Rather, in Byrnes each segment is arcuate (i.e., "to bend like a bow"). Merriam-Webster's Collegiate Dictionary, Tenth Edition, defines cylindrical as "relating to or having the form or properties of a cylinder." Meanwhile, a cylinder is defined as "a: the space traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar closed curve b: the space bounded by a cylinder and two parallel planes cutting all its elements." Thus, based on the definition of cylindrical, a pipe elbow having two parts, each part having an arcuate segment as shown in Byrnes, does not teach or suggest a cylindrical bore. (Emphasis added). Accordingly, for the reasons set forth above, and further since Byrnes does teach or suggest a first or a second cylindrical bore as recited in Claim 11, Claim 11 should be allowable.

3. Claims 23, 27 and 28:

Claim 23 recites a pipe coupling comprising: an elongated housing comprising a first end and a second end, the housing defining an elongated bore therein; a single stop located on an inner diameter of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to

one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing; a first cylindrical bore extending from the first end to the stop; and a second cylindrical bore extending from the second end to the stop, wherein an angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees. (Emphasis added).

Byrnes relates to a pipe elbow having two parts, each part having an arcuate segment. The arcuate segment of the first part fits sealably into the arcuate segment of the second part. By severing a portion of the arcuate segment of the first part at an angle needed for a specific run of pipe and inserting it into the arcuate segment of the second part, the assembled elbow will conform to the required angle. In addition, a sloped shoulder on the outside of the first part fits in close proximity to the end of the second part to ensure a extension of the first part into the second part in order to meet industry standards for minimum overlap of mating parts. An angled end on the arcuate segment of the second part may also be provided. See abstract.

In contrast to the combination of features as recited in Claim 23, Byrnes does not teach or suggest a pipe coupling having a first cylindrical bore extending from the first end to the stop; and a second cylindrical bore extending from the second end to the stop. Rather, in Byrnes each segment is arcuate (i.e., "to bend like a bow"). Merriam-Webster's Collegiate Dictionary, Tenth Edition, defines cylindrical as "relating to or having the form or properties of a cylinder." Meanwhile, a cylinder is defined as "a: the space traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar closed curve b: the space bounded by a cylinder and two parallel planes cutting all its elements." Thus, based on the definition of cylindrical, a pipe elbow having two parts, each part having an arcuate segment as

shown in Byrnes, does not teach or suggest a cylindrical bore. (Emphasis added). Accordingly, for the reasons set forth above, and further since Byrnes does teach or suggest a first or a second cylindrical bore as recited in Claim 23, Claim 23 should be allowable. Claims 27 and 28 are dependent from Claim 23 and should also be allowable for the reasons set forth above.

B. Whether Claims 2-3 and 24-26 are unpatentable under 35 U.S.C. 103(a) over Byrnes in view of McIlroy (U.S. Patent No. 3,995,888):

Claims 2 and 24 the pipe coupling of Claims 1 and 23, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 45 degrees.

Claims 3 and 25 recite the pipe coupling of Claims 1 and 23 respectively, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 60.

Claim 26 recites the pipe coupling of Claim 23, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 90.

McIlroy relates to a flexible pipe connector having a plurality of segmented sections fabricated along precast or scribed frangible lines.

As set forth above, Byrnes does not teach or suggest a pipe coupling having a first cylindrical bore extending from the first end to the stop; and a second cylindrical bore extending from the second end to the stop. Rather, in Byrnes each segment is arcuate (i.e., "to bend like a bow"). Accordingly, for the reasons set forth above, and further since Byrnes does teach or suggest a first or a second cylindrical bore as recited in Claims 1 and 23, Claims 2, 3, and 24-26, which are dependent from Claims 1 and 23, should be allowable.

C. Conclusion:

In view of the forgoing, the Applicant respectfully requests that the present rejections be reversed.

VIII. Claims Appendix

See attached Claims Appendix for a copy of the claims involved in the appeal.

IX. Evidence Appendix

There is no Evidence Appendix relied upon by Appellant.

X. Related Proceedings Appendix

There are no related proceedings, and thus no Related Proceedings Appendix.

Respectfully submitted,

Buchanan Ingersoll & Rooney PC

Date: May 10, 2007

By: _____
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VIII. CLAIMS APPENDIX

The Appealed Claims

1. A pipe coupling comprising:

an elongated housing comprising a first end and a second end, the housing defining an elongated bore therein;

a stop located on an inner diameter of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing;

a first cylindrical bore extending from the first end to the stop; and

a second cylindrical bore extending from the second end to the stop, wherein an angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees, and wherein each of the cylindrical bores are configured to allow a pipe end to advance into the pipe coupling until reaching the stop.

2. The pipe coupling of Claim 1, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 45 degrees.

3. The pipe coupling of Claim 1, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 60.

4. The pipe coupling of Claim 1, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 90.

5. The pipe coupling of Claim 1, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 120 degrees.

6. The pipe coupling of Claim 1, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 135 degrees.

11. A pipe coupling consisting of:

an elongated housing comprising a first end and a second end, the housing defining an elongated bore therein;

a stop located on an inner diameter of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing;

a first cylindrical bore extending from the first end to the stop; and

a second cylindrical bore extending from the second end to the stop, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees, and wherein each of the cylindrical bores are configured to allow a pipe end to advance into the pipe coupling until reaching the stop.

23. A pipe coupling comprising:

an elongated housing comprising a first end and a second end, the housing defining an elongated bore therein;

a single stop located on an inner diameter of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from

the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing;

a first cylindrical bore extending from the first end to the stop; and

a second cylindrical bore extending from the second end to the stop, wherein an angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees.

24. The pipe coupling of Claim 23, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 45 degrees.

25. The pipe coupling of Claim 23, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 60.

26. The pipe coupling of Claim 23, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 90.

27. The pipe coupling of Claim 23, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 120 degrees.

28. The pipe coupling of Claim 23, wherein the angle between the first cylindrical bore and the second cylindrical bore is about 135 degrees.

X. EVIDENCE APPENDIX

None.

XI. RELATED PROCEEDINGS APPENDIX

None.